

Interview Summary

Application No.

10/796,162

Applicant(s)

WELCH, JAMES D.

Examiner

Robert M. Pond

Art Unit

3625

All participants (applicant, applicant's representative, PTO personnel):

(1) Robert M. Pond.

(3) _____.

(2) Mr. James D. Welch. #31.216.

(4) _____.

Date of Interview: 27 May 2009.

Type: a) ☒ Telephonic b) ☐ Video Conference

c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: 1-27.

Identification of prior art discussed: Lawcast.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Appeal Brief: specification; priority dates and general strategy to move prosecution forward. See attached correspondence.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Robert M. Pond/
Primary Examiner, Art Unit 3625

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135 (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Pond, Robert

From: Jim Welch [jdwscmos1@netzero.net]
Sent: Wednesday, May 27, 2009 10:22 PM
To: Pond, Robert
Subject: pond2009 8_53 PM 28.pdf

Attachments: pond2009 8_53 PM 28.pdf



pond2009
PM 28.pdf (81

Examiner Pond---yes the concept of updating was central to the invention from the start. I'm including excerpts from the Provisionals and Parent Application which show that. The First Provisional was titled "Method of Providing Information Update Service For Profit" and was No. 60/198,157 Filed 04/17/2000. That Provisional was my Business Plan that taught use of FM Subcarriers to distribute Updated information, and was premised on interpreting FM Subcarrier as Internet for the purpose of disclosure. The bottom of Page 18 through the Top of Page 19 disclose Updating. The Second Provisional, No. 60/201,000 Filed 05/01/2000 and titled "Method of Providing Audio Format Professional Update Service For Payment Via Internet", discloses on Page 9 a Claim 1 which is similar to what we are now looking at, and a Claim 2 which discloses Periodically Updating Information. Then, as it is an update service, Claim 1 would be done again. The present Application just combines the 000 Provisional Claims 1 and 2. Also, the Parent Application 09/685,044 Filed 10/10/2000 which has the same title as the second Provisional, discloses Updating on Pages 7 and 8 thereof. Copies of identified Provisional and Parent Application Pages are Attached.

I can probably find more in the Provisionals and Parent, but I think what I quickly found should suffice. Jim

optimum use of their time. Audio can be conveniently enjoyed

while driving, relaxing or working. Video was considered early in the development of the LRN concept but was discarded because it is about four times as costly to rent transmission channels sufficient to carry conventional video, and because the video picture would actually create a distraction. Also visual aids

would rarely add to the utility of the communication. (Note that "slow-scan" video is possible over subcarriers but the receiver equipment is far more costly. Data can also be transmitted over subcarriers but the printer terminal required to receive data costs about \$1000.00. LRN might, however, eventually operate part time as an electronic mail network sending hard copy to printers in subscribers offices, thereby eliminating the postal fees in data distribution).

Today it is nearly impossible to keep current with the rapidly changing body of law. LAWYERS RADIO NETWORK will provide an efficient and economical way for law related professionals to keep aware of developments in their area, with little effort. With such knowledge an attorney will win more cases, thus earning additional income far exceeding the cost of LRN service.

It is to be emphasized that LAWYERS RADIO NETWORK will benefit from the experience of observing the other SCA services of a similar nature in other professional areas. LAWYERS RADIO NETWORK will draw income from all possible sources (subscription fees, advertising time and tape sales), thus, the cost of each source can be kept to a reasonable level. LAWYERS RADIO NETWORK will also keep production costs low by optimally formatting the programming. By updating the tapes once a week LRN can take



From 6/19/57 File 41172000
advantage of the presently available weekly updated printed materials directly and as a result will require only three script writers and two announcers (one male, one female) to produce the LRN programming from the publishers' materials.⁸ LRN should be able to obtain the materials needed from the publishers in return for the advertisement LRN will supply in the form of cites, and under the Copyright Law concept of Fair Use, (17 U.S.C. 107).

Another convenience available to LRN is present in the form of an interest from existing networks of FM stations to help LRN obtain stations and satellite signal distribution.⁹

Recently, National Public Radio has renewed its willingness to provide SCA service. Other networks might also be utilized and in addition LRN has been contacted by stations in New York, Los Angeles, Denver, Boston, Washington, D.C. and other cities regarding rental of one of their SCA bands.¹⁰ Lawyers Radio Network will distribute its signal to the various FM stations in

Mr. Welch has visited numerous publishers and they have shown interest in discussing the project further when financing is arranged to allow the network to be realized. Tony Scudellari, president of Callaghan, has shown a definite interest and belief in the LRN concept. Also, Steve Bauman of the National Law Journal has provided a quote for producing two hours of tape for LRN each week.

⁹See Appendix 1 for letter from National Public Radio.

¹⁰Consultants, experienced in assembling SCA networks, tell us we could easily assemble our own network.

CLAIM:

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From 60/204,800 Field 5/21/2000

From 09/685,044 Filed 10/10/2000

server capacity, server loading, backbone and access network bandwidths and placement and access mechanisms of servers are considered regarding ease of acquiring information.

5 Patents Nos. 6,018,767 to Rifkin et al., and 5,943,422 to Van Nieu et al. are also disclosed as they were turned-up in search effort, although not felt to be particularly relevant.

10 It is further known that there are various available services known which enable clients to, for instance, access audio programming such as from radio stations anywhere in the world, and to otherwise allow access to music over the Internet.

15 What has not been found, however, is a patent, or combination of patents describing a method of providing audio format professional continuing education information for payment comprising the basic steps of:

20 a. an information provider establishing an Internet web site;

b. said information provider making information available via said web site in topical professional categories;

25 c. making access to information available via said web site available to clients by a selection from the group consisting of:

periodic subscription; and

direct pay per access event;

d. allowing clients to receive audio format information via said web site by, using an Internet accessing means, accessing said web site, and providing a selection from the group consisting of:

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15 A need is thus identified, to which the present invention provides a solution.

10 covered. It is noted that the LAWCAST service mails updated
category so that it reflects timely recent developments in areas
further involves periodically updating the information in each
 identified information in said category of interest. Said method
 of course, further comprising said client receiving the
 and identifying an information category of interest, said method,

5 presenting payment means (eg. credit or
 debit card or functional equivalent);

proof of paid subscription; and

File- 09/685,044 Filed 10/10/2002

Pond, Robert

From: Jim Welch [jdwscmos1@netzero.net]
Sent: Thursday, May 28, 2009 9:15 AM
To: Pond, Robert
Subject: Re: 10796162

Examiner Pond---a bit more. First, in direct answer to your question last night---I should have said "no"--- updating was disclosed in the Provisionals and Parent. It was just not directly Claimed as being required that CIP steps f and g be practiced until the CIP, but the scenario of at least two instances of providing information, the second of which is updated, was disclosed in the First Provisional. See Page 8 Lines 11 & 12 in the 044 Parent I "PDFed" to you last night which make this clear, by analogy to the Lawcast practice of Mailing updated tapes every two weeks. As I recall, the CIP type Claims we are now considering, that require two instances of providing information, came about based in Prosecution of the Parent Application and at that time no objection to support therefore was raised. So---I think the situation is that the provision of two instances of information, the second being updated, was disclosed in both Provisionals and the Parent, but not specifically Claimed as required to be within the scope of the Claims, until the CIP. Jim

----- Original Message -----

From: Pond, Robert
To: Jim Welch
Sent: Wednesday, May 27, 2009 6:32 PM
Subject: RE: 10796162

Hi Mr. Welch,

I need some help regarding effective priority date. I couldn't find "updating" and delivering updated information as described in claim 1(f & g) in the parent case. The current case is a CIP. Is the updating aspect new to this case?

Rob Pond